

IN THE DRAWINGS:

Please amend the drawings in accordance with the replacement sheets attached hereto. Pursuant to 37 C.F.R. 1.121(d) two sets of drawings are included. The first set shows a clean copy of the drawings with all changes incorporated, while the second set shows the changes marked up in red. The clean copy of the drawings has been labeled as "Replacement Sheets."

REMARKS

Reconsideration and further examination of the subject patent application in light of the present Amendment and Remarks is respectfully requested.

Remarks Regarding The Drawings

Applicant notes the Examiner's objection to the formal drawings and submits herewith corrected formal drawings. No new matter has been added.

Introductory Remarks Regarding The Claims

Claims 1-11 are currently pending in the application and stand rejected. Applicant respectfully traverses this rejection. Claim 1 is objected to as the Examiner submits that the preamble term "diarizing" is not definite. Claim 1 has been amended to overcome this objection. New claims 12-12 have been added.

Rejection Under 35 U.S.C. §103

Claims 1-6 and 8-10 stand rejected under 35 U.S.C. §103 as being unpatentable over Teixeira in view of Neumann, as set forth on pages 3-9 of the Office Action. In view of the claims as presently amended, applicant respectfully traverses this rejection.

Claim 1 recites structure directed to a mountable chassis, an electronic display on the chassis and a computer device coupled to the display. The claimed invention is directed to such a device that is maintained by a janitorial service wherein the computer device is configured to receive a user-input that is coterminous with when the facility is cleaned. Thus, although the claimed hardware performs a time recording function, it is not a mere clock and its structure is different than the display device in Teixeira and its purpose is very different.

The clock timing device of Teixeira is merely a simple clock timer that can display elapsed

time, interval time or accumulated time. Teixeira is completely unrelated to applicant's claimed invention with regard to its function. Further, the clock of Teixeira, once programmed, continuously changes to reflect that time is increasing or decreasing. The specification states that "the present invention of a time interval and event display device what will continually indicate to a viewer an accumulating or reducing time period related to a displayed event..." (Col. 3, lines 8-11). Thus, when something is programmed into the Teixeira device, time "continues to march on." That it, the display will either increment or decrement to show the viewer what is changing in real time.

In contrast, applicant's claimed invention does not necessarily show what is happening in real time. Rather, applicant's invention attempts to show a record of what happened in the past, namely, the fixed and exact time that the facility was last maintained, as set by the time of the user-input. It does not count down time or count up time as does the Teixeira device. Applicant's claimed invention is concerned with preserving the record of the past, like a diary, which is the "root" word of the text "diarizing," originally recited in claim 1, and now amended. Thus, once an event has been recorded, such as cleaning of the facility, that time is preserved until altered. It does not change by itself to convey some other type of information, as does the device in Teixeira.

Accordingly, Teixeira does not teach, disclose or suggest a device having a display configured to continue to display a fixed time until changed by receipt of a subsequent user-input. Further, nothing in Neumann supplies a supposedly missing element in Teixeira, nor is there any suggestion or motivation to combine Teixeira with Neumann to arrive at applicant's claimed invention.

The Examiner suggests that Teixeira does not teach when the facility was last maintained, but that it would have been obvious use Teixeira's time interval to display the time that a facility was last

cleaned based on Neumann's purpose of providing a solution to quality assurance problems. This does not appear to be a proper combination to support an obviousness rejection. In that regard, Teixeira is the primary reference and would typically include many of the elements of the claimed invention, except for perhaps at least one missing element. Neumann as the secondary reference, then should then provide the missing element, and of course, there should be some motivation or suggestion to make the combination.

However, in this case, Neumann does not provide any missing element or structure when combined with Teixeira to arrive at applicant's claimed invention. Neumann merely provides a hand-held display or PDA that records the state of a particular task. It records whether a task was done, or whether it was not done--it does NOT record the time. This is like the magnetic indicators that one sticks on the dishwasher that says "clean" or "dirty" depending upon how the indicator is rotated. Neumann does not teach or disclose any subject matter concerning establishing a time when such task was completed, which is the thrust of applicant's claimed invention. It does not discuss any such subject matter because it is immaterial to the Neumann invention. Neumann is only concerned with keeping track of many different tasks so that a task is not omitted from a schedule of tasks. It only matters that a particular task was done, NOT when it was done.

Thus, Neumann does not supply any missing element, namely the element of a display configured to continue to display a fixed time until changed by receipt of a subsequent user-input. Any combination of Teixeira and Neumann would still not contain the recited limitation. Even if Teixeira and Neumann were somehow combined in accordance with the Examiner's suggestion, what would the resulting device look like? The resulting device would look like a wall-mounted stop watch displaying either an increasing or decreasing time, and further having some indication that a

particular task was done or not done. No combination would yield applicant's invention where the display showed the last time a user-input occurred so as to denote the time the facility was last cleaned.

As the Examiner is aware, it is impermissible to combine the teaching of prior art to produce the claimed invention absent some teaching or suggestion supporting the combination. In re Fritch, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). The Examiner cannot pick and choose features from the prior art to recreate the claimed invention in hindsight without some teaching or suggestion in the references to support use of the particular claimed combination. Smithkline Diagnostics Inc., v. Helena Laboratories Corp., 8 U.S.P.Q.2d 1468, 1475 (Fed. Cir. 1988).

In considering whether providing the (reference structure) would have been obvious to one skilled in the art at the time of applicant's invention, the claimed invention must be considered as a whole. The question is whether there is something in the prior art as a whole to suggest the desirability, and thus the obviousness to one of ordinary skill in the art, of making applicant's claimed invention. Lindemann Maschinenfabrik GmbH v. American Hoist and Derrick, 730 F.2d 1452, 1462 (Fed. Cir. 1984). In the present case, none of the references, taken either individually or in combination, suggest applicant's claimed (method)(apparatus). In fact, none of the references teach certain claimed aspects of the invention such as (specific claimed aspects) thus, combining the reference devices would not produce applicant's claimed invention nor would such a combination produce a functional device. Additionally, applicant find no inferences in either reference that one of ordinary skill in the art could draw from to provide the motivation to provide (specific feature of invention)

In sum, applicant submits that claim 1 is not unpatentable over the combination of Teixeira

and Neumann for the reasons stated above, and thus is allowable. Applicant further submits that claims 2-11 are allowable as depending from an allowable base claim.

Closing Remarks


For the foregoing reasons, applicant submits that the subject application is in condition for allowance and earnestly solicits an early Notice of Allowance. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, the Examiner is respectfully requested to call the undersigned at the below-listed number.

The Commissioner is hereby authorized to charge any additional fee which may be required for this application under 37 C.F.R. §§ 1.16-1.18, including but not limited to the issue fee, or credit any overpayment, to Deposit Account No. 23-0920. Should no proper amount be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 23-0920.

Respectfully submitted,

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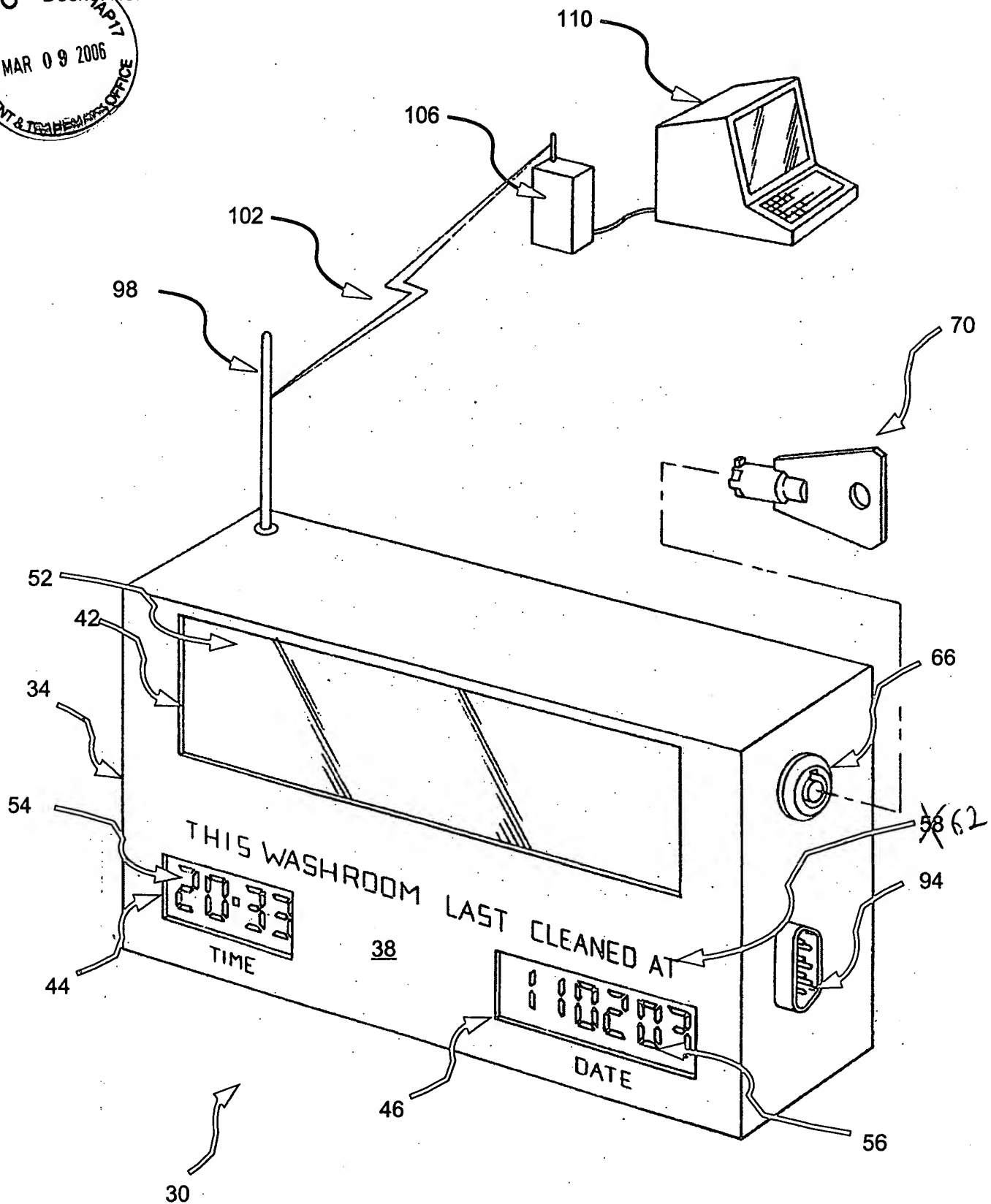


Fig. 1

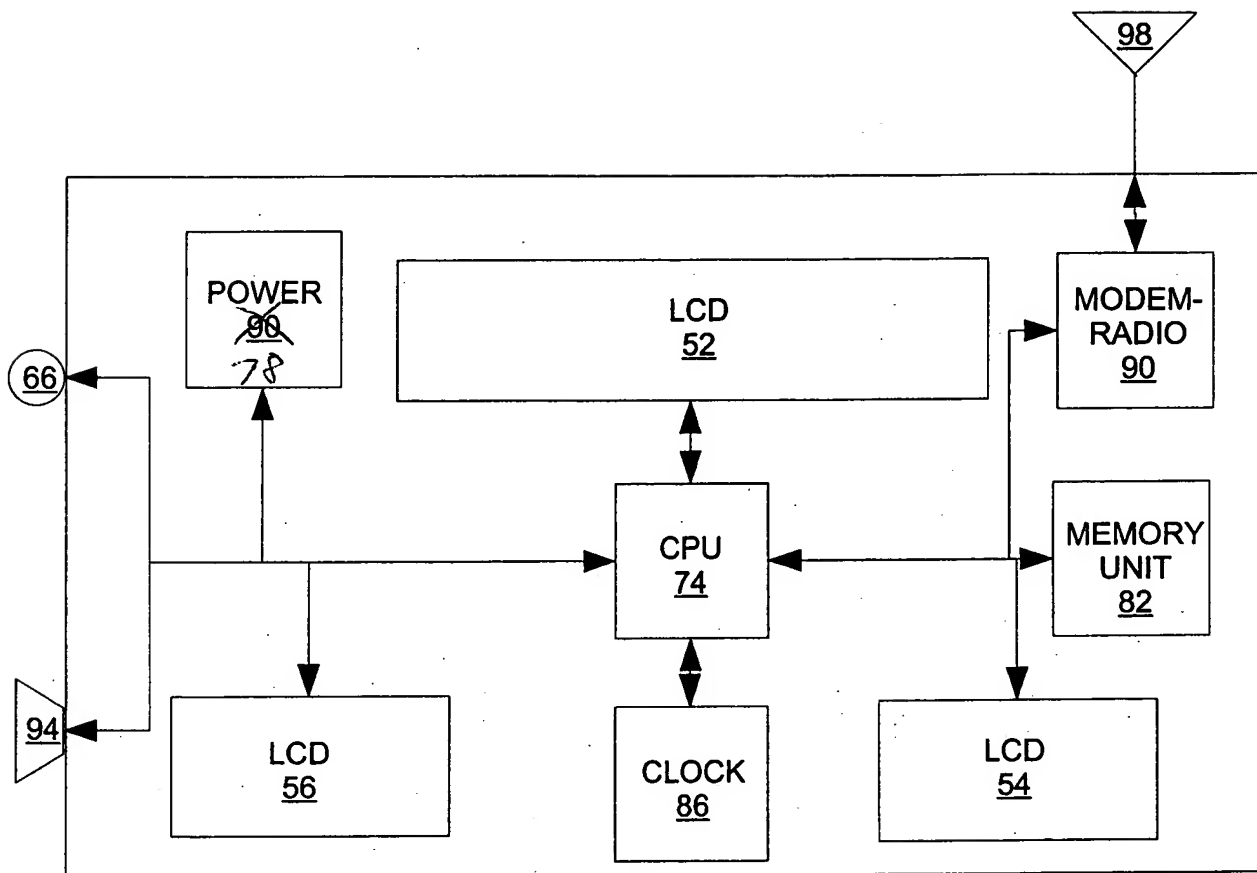


Fig. 3